UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,334	03/14/2001	Stephen J. Brown	7553.00019 / 01-0310	6688

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HEALTH HERO NETWORK, INC.
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EXAMINER
KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 December 2007_.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-7,9-16 and 18-21_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-7,9-16 and 18-2_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Status of the Application

1.   Claims 1-7, 9-16 and 18-22 have been examined in this application. This is a non-final

office action in response to the Interview conducted with the applicant's representative, John

Ignatowski, on December 18, 2007 with Robert Morgan of the US Patent and Trademark Office.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-7, 9-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over US Patent Number 5,897,493 to Brown in view of US Patent Number 5,765,139 to Bondy

in further view of US Patent Number 6,584,445 to Papageorge and in even further view of US

Patent Number 6,139,404 to Cairnes and in even further view of US Patent Application

Publication 2005/0108067 to Chapman and in even further view of "Industrial applications of

safety information management systems" by Yoon.

(A)   As per claim 1, Brown teaches

        a server comprising (Brown: Col. 4, Ln. 43-51);

        a questionnaire generator for (i) generating a questionnaire comprising (a) one or more

questions for determining at least one of a physical condition of said individual, a mental

condition of said individual, and a behavior of said individual, and for transmitting said

questionnaire from said server to said remotely programmable apparatus, wherein the apparatus

is (a) associated with an individual and (b) remotely located from the server (Figures 2 and 5

((94) and 98)) and Col. 5, Ln. 7-19);

and wherein said remotely programmable apparatus (Brown: Col. 4, Ln. 55-60)

comprises:

a communication means for receiving said questionnaire and said script program from

said server and for transmitting said responses to said server (Brown: Col. 4, Ln. 47-51);

a user interface for communicating said questionnaire and said script program to said

individual and for receiving said responses (Brown: Col. 4, Ln. 49-51);

a memory for storing said questionnaire, said script program, and said responses (Brown:

Col. 7, Ln. 1-9); and

a processor connected to said communication means, said user interface and said memory

for executing said questionnaire and said script program to communicate said questions to said

individual, to receive said responses to said questions, and to transmit said responses to said

server (Brown: Col. 7, Ln. 11-17).

Brown does not teach an expression of risk for an individual and (b) a first number of

answer options to each of said questions, wherein the expression of risk concerns a condition and

Brown does not teach a (i) generating a profile for said individual based on one or more aspects

of care, the expression of risk and the level of risk and assigning a subsequent program to the

individual based on the profile, however, this feature is taught by Papageorge (Col. 8, Ln. 44-47,

Ln. 58-63 and Ln. 65-67and Col. 9, Ln. 6-17).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the teachings of Brown with the aforementioned teachings from Papageorge with the motivation of having a means of helping patients make informed decisions, as recited in Papageorge (Col. 1, Ln. 14-24).

Brown does not teach the following (structural) feature which is taught by Bondy (Figure 2 (Arrows 210, 212, 214) and Col. 3, Ln. 30-35):

a database in a storage medium said database containing model information.

At the time of the invention, one of ordinary skill in the art would have been motivated to modify the teachings of Brown with the aforementioned teachings from Bondy with the motivation of having a means of automatically transforming data from one type of data structure into another type of data structure, as recited in Bondy (Col. 2, Ln. 15-20) (Note: One of ordinary skill in the art would recognize that a database permits a user to convert data into various formats).

The combined teachings of Brown in view of Bondy and in view of Papageorge do not teach that a database is indexed by an aspect of care, an expression of risk and a level of risk. Nor do the combined teachings of Brown and Bondy teach that the second number of values are greater than the first number of answer options, however, this feature is taught by Cairnes (Col. 21, Ln. 12-27). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the combined teachings of Brown, Bondy and Papageorge with the above mentioned teachings from Cairnes with the motivation of having a means of customizing therapies for a particular patient according to their level of risk, as recited in Cairnes (Col. 21, Ln. 24-27).

The above references do not teach the step of sending health related information wherein the data relating to the physical condition of the individual comprises patient information from one or more medical claims received by the server from a medical claims paying organizing associated with the individual, however this feature is taught by Chapman (Section [0046]. At the time of the invention it would have been obvious to one of ordinary skill in the art to have modified the aforementioned references with the above mentioned teachings from Chapman with the motivation of having a means of improving medical claim adjudication, as recited in Chapman (Section [0001]).

The above references do not teach the step of (a)(ii) associating each of said answer options with one of a second number of values representing a level of risk, said second number of values being greater than the first number of answer options, however this feature is taught by Moon. At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the above references with the aforementioned teachings from Moon with the motivation of having a means to better quantify the risk for each patient.

(B)   As per claim 2, in Brown the profile of said individual is updated based on follow-up responses (Brown: Col. 5, Ln. 63-Col. 6, Ln. 4).

(C)   As per claim 3, in Brown the profile further comprises, a language of said individual, and a current health condition of said individual; and said script generator also tailors questionnaire and said script program in dependence upon said language and said current health condition of said individual (Brown: Col. 4, Ln. 59-60).

(D)   As per claim 4, in Brown the questionnaire generator further generates a motivational profile and comprehension capacity profile of said individual based on one or more answers

(Brown: Col. 8, Ln. 65-Col. 9, Ln. 8) and Papageorge (Col. 8, Ln. 58-61). The motivation of

making this modification to the teachings of Brown is set forth above in the rejection of claim 1.

(E)   As per claim 5, in Brown the subsequent program comprises: a request for additional

responses (Col. 2, Ln. 18-25);

        and educational information (Brown: Col. 5, Ln. 9-15 and Ln. 33-42).

(F)   As per claim 6, in Brown the educational information is received by a server from an

external source (Brown: Col. 10, Ln. 8-15).

(G)   As per claim 7, in Brown the data relating to said physical condition of said individual

comprises one or more measurements received by a server from a monitoring device connected

to said apparatus (Brown: Col. 4, Ln. 61-Col. 5, Ln. 6).

(I)   As per claim 9, in Brown the data related to said physical condition of said individual

comprises electronic medical records received by said server from a services organization

associated with said individual (Brown: Col. 8, Ln. 5-24).

(J)   As per claims 10-16 and 18, this claim is substantially similar to claim 1-9, above,

respectively, and is therefore rejected on the same basis as claim 1, as set forth above.

external source of additional educational information and means for transferring said additional

educational information from said external source to said remotely programmable apparatus

(Brown: Col. 10, Ln. 8-15).

(K)   As per claim 19, in Brown teaches a storage medium for use in a server to communicate

with one or more patient devices, the storage medium recording a computer program that is

readable and executable by the server (Brown: Abstract), the computer program comprising the

steps of:

(A) displaying a plurality of questions, a plurality of answers and a plurality of follow-up actions (Brown: Figure 5 and Col. 5, Ln. 52-62);

(B) receiving a selection to each of a particular question of said questions, a particular answer of said answers and a particular follow-up of said follow-up actions from a user (Brown: Figure 5 and Col. 5, Ln. 52-63);

(C) linking particular question and the particular answer and the particular follow-up action (Brown: Figure 5, Col. 5, Ln. 52-62).

(D)   converting the linked questions into a subsequent program (Brown: Figure 5 and Col. 5, Ln. 52-62) ; and

(E)   transmitting the subsequent program to said one or more patient devices over a communication network (Brown: Figure 5, Col. 5, Ln. 52-62).

Brown does not teach icons, however, the Office takes Official Notice that icons are well known in the software industry and at the time of the invention one of ordinary skill in the art would have been motivated to use icons in the computer program of Brown with the motivation of having a means of providing a user with an easy to use means of answering the questions posed by the software program of Brown

6.   Claims 8 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Papageorge and in further view of Bondy and in further view of Cairnes, as applied to Claims 1 and 10, above, respectively, in even further view of US Patent Application Publication 2002/0010597 to Mayer and in even further view of Official Notice.

(A)   As per claims 8 and 17, Brown does not teach that the data related to the physical condition of the individual comprises electronic medical claims received by said server from a

medical claims paying organization associated with said individual (Figure 5 and Section [0046]). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the system and method of Brown by adding the aforementioned feature from Mayer with the motivation of providing an enhanced computerized tool for maintaining and managing various aspects of patients' healthcare, as recited in Mayer (Section [0003]). Mayer does not explicitly recite medical claims, however, the Examiner takes Official Notice that it is well-known in the health care industry that medical claims compromise data relating to the physical condition of an individual (patient) (e.g. in the form of ICD and/or CPT codes) and at the time of the invention, one of ordinary skill in the art would have been motivated to have modified the teachings of Brown, Papageorge, Bondy and Mayer with this aforementioned teachings with the motivation of having a means of having a means of referencing the particular service a health care services organization is paying for when it is reimbursing a patient for a medical claim that has been made on behalf of the patient by a health care provider.

7.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, as applied to Claim 19, above and in even further view of Cairnes.

(A)   As per claim 20, Brown does not teach a means of defining a position of said particular answer along a risk scale ranging from a low risk value to a high risk value, however this feature is taught by Cairnes (Cairnes: Col. 21, Ln. 21-27). The motivation for making this modification to Brown in the same as that set forth in the rejection of Claim 1, above.

8.   Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Papageorge and in further view of Bondy and in further view of Cairnes, as applied to Claim 19, above, and in even further view of Official Notice.

(A)   As per claims 21 and 22, the Office takes Official Notice that it is well known in the

software industry to register a language of an individual and tailor subsequent programs to said

individuals in dependent upon their language and the motivation for doing so is to make the

computer program more user friendly. The Office also takes official notice that it is well known

in the software industry to simulate (debug) the questionnaire prior to the transmission of said

questionnaire to the patients and the motivation for doing this is to ensure that patients will not

have to more about dealing the programming errors when they are using the device.

Response to Arguments

8.   Applicant's arguments, filed on October 26, 2007, with respect to the pending claims

have been considered but are moot in view of the new grounds of rejection.

Conclusion

9.   Any inquire concerning this communication or earlier communications from the

examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109.

The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's

supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for

this group are either (571) 273-8300 or (703) 872-9326 (for official communications including

After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information

Retrieval (PAIR). Information regarding the status of an application can be obtained from the

(PAIR) system. Status information for published applications may be obtained from either

Private PAIR or Public PAX. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, please feel

free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

Vivek Koppikar

4/30/2008

/Robert Morgan/

Primary Examiner, Art Unit 3626